IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 784 of 1982

For Approval and Signature:

HON'BLE MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

BHARANI JORUBHA TAKHUBHA

Versus

HEIRS OF SUKHLAL JADAVJI

Appearance:

1. First Appeal No. 784 of 1982

MR JR NANAVATI for Petitioner No. 1

NOTICE SERVED for Respondent No. 1-1/8

CORAM : HON'BLE MR.JUSTICE M.C.PATEL

Date of decision: 09/04/2004

ORAL JUDGEMENT

1. The appellant in this First Appeal is the original plaintiff. He filed the suit against the

respondents, alleging that, he was the owner of the suit land but the respondent no.5 had illegally sold the same to one Sukhlal Jadavji. The defendants No. 1 to 4 were joined as heirs of Sukhlal Jadavji. The appellant prayed for a declaration that the sale deed executed by the defendant no.5 in favour of defendants No. 1 to 4 and the sale deed executed by them in favour of defendant No. 6 to 8 were illegal, void and not binding on him. He also prayed for possession of the suit land and mesne profits.

2. The defendant No.5 contended in his written statement that he was the sole owner of and in possession of the suit land and the impugned sale was legal and valid. He contended that when the land was surveyed by the Surveyor under the provisions of Bombay Land Revenue Code the plaintiff had not raised any objection and the said land was mutated in his name in the government record and thereafter he had sold it to Sukhlal Jadavji.

3. On appreciation of the evidence led by the parties, the learned trial Judge found that the plaintiff was given 15 acres of land in the land bearing survey No. 587 and he had purchased 10 acres from one Gaguben Meghaji, and so, according to his own case, he could be in possession of 25 acres of land, and in fact he was in possession of 25 acres of land in this survey number. Hence his contention that he had been in possession of the suit land and defendant No.5 was not entitled to sell the said land was not correct. He also found that the defendant No.5 was the owner of the suit land. He therefore dismissed the suit. The appellant has therefore, filed this First Appeal, challenging the said judgment & decree.

4. The learned advocate for the appellant has taken me through the judgment and evidence on record. The learned Judge has dealt with the evidence at length and given cogent reasons for recording his findings. They are not shown to be erroneous in any way. I see no reason to take a different view. There is no substance in the appeal and the same is dismissed.

Dt: 9-4-2004 (M.C. Patel, J)

/vgn